

designated for applicants who are members of socially disadvantaged groups will be used exclusively to assist them in purchasing farmland. However, this requirement does not preclude the use of the State's regular allocation of FO funds for loans for other authorized FO loan purposes to applicants who are members of socially disadvantaged groups. (See exhibit B of this subpart, "Target Participation Rates for Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 Direct Farm Ownership (FO) Loans and Acquired Property Outreach Program for Members of Socially Disadvantaged Groups".)

[53 FR 35692, Sept. 15, 1988, as amended at 55 FR 21527, May 25, 1990]

§ 1943.11 Receiving and processing applications.

Applications for FO loans will be received and processed as provided in subpart A of part 1910 of this chapter, with consideration given to the requirements in exhibit M of subpart G of part 1940 of this chapter. Socially disadvantaged individuals will be provided the technical assistance necessary when applying for FO loans or other assistance to acquire inventory farmland. Such assistance shall include, but not be limited to, completion of application and farm and home planning.

[55 FR 21528, May 25, 1990]

§ 1943.12 Farm ownership loan eligibility requirements.

In accordance with the Food Security Act of 1985 (Pub. L. 99-198), after December 23, 1985, if an individual or any member of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR part 1308, which is exhibit C to subpart A of part 1941 of this chapter and is available in any FmHA or its successor agency under Public Law 103-354 office, for the definition of *controlled substance*) prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner or joint operator of the entity was con-

victed and the four succeeding crop years. Applicants will attest on Form FmHA or its successor agency under Public Law 103-354 410-1, "Applications for FmHA or its successor agency under Public Law 103-354 Services," that as individuals or that its members, if an entity, have not been convicted of such crime after December 23, 1985. In addition, the following requirements must be met:

(a) *An individual must:*

(1) Be a citizen of the United States, a United States non-citizen national, or a qualified alien under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

(2) Possess the legal capacity to incur the obligations of the loan.

(3) Have sufficient applicable educational and/or on the job training or farming experience in managing a farm or ranch which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation.

(4) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rate and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(5) Be the owner-operator of not larger than a family farm after the loan is closed (in the case of a limited resource applicant see § 1943.4 of this subpart).

(6) Have participated in the business operations of a farm or ranch for at least 3 years out of the 10 years prior to the date the application is submitted and satisfy at least one of the following conditions:

(i) Meet the definition of a beginning farmer or rancher.

(ii) The applicant, or anyone who will execute the promissory note, has not had direct FO loans outstanding for more than a total of 10 years prior to the date that the new FO loan is closed.

(iii) Have never received a direct FO loan.

(7) *Transition rule.* This applies to applicants with direct FO loans outstanding on April 4, 1996.

(i) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for less than 5 years, the applicant is eligible for new direct FO loans through April 4, 2006.

(ii) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for 5 years or more, those parties are eligible for new direct FO loans through April 4, 2001.

(8) Have not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt-write down, write-off, compromise provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances.

(9) Not be delinquent on any non-tax Federal debt or FSA guaranteed debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date.

(b) *A cooperative, corporation, partnership, or joint operation must:*

(1) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time. This applies to the entity and *all* of its members as individuals.

(2) Be controlled by farmers or ranchers engaged *primarily* and *directly* in farming or ranching in the United States, after the loan is made.

(3) Be the owner-operator of not larger than a family farm after the loan is closed (except for limited resource applicants and as provided for in paragraph (b)(7) of this section) and consist of members who are *individuals* and *not* cooperative(s), corporations(s), partnership(s) or joint operation(s).

(4) If the members holding a *majority interest* are related by blood or mar-

riage, they must meet the following requirements:

(i) For an entity applicant, the majority interest of the entity must be held by members who are United States citizens, United States non-citizen nationals, or qualified aliens under applicable Federal immigration laws. United States non-citizen nationals and qualified aliens must provide the appropriate documentation as to their permanent immigration status as required by the United States Department of Homeland Security, Bureau of Citizenship and Immigration Services.

(ii) They must have sufficient applicable educational and/or on the job training or farming experience in managing a farm or ranch which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation.

(iii) At least one member must operate the family farm.

(iv) The entity must own *and* operate the farm and be authorized to do so in the State(s) in which the farm is located.

(5) If the members holding a *majority interest* are *not* related by blood or marriage:

(i) The requirements of paragraphs (b)(4)(i), (ii) and (iv) of this section must be met.

(ii) They and the entity itself must own *and* operate the family farm.

(6) If applying as a limited resource applicant, as defined in § 1943.4 of this subpart:

(i) The requirements of paragraphs (b)(4)(i), (ii) and (iv) of this section must be met by the entity applicant and all its members.

(ii) The entity and *all* the members must own *or* operate a small or family farm; and at least one member must operate the farm.

(7) If each member's ownership interest does not exceed the family farm definition limits, their collective interests can exceed the family farm definition limits only if:

(i) All of the members of the entity are related by blood or marriage,

(ii) All of the members are or will be operators of the entity, and

(iii) The majority interest holders of the entity meet the requirements of

paragraphs (b)(4)(i), (ii) and (iv) of this section.

(8) Have one or more members, constituting a majority interest in the business entity, who have participated in the business operations of a farm or ranch for at least 3 years out of the 10 years prior to the date the application is submitted and satisfy at least one of the following conditions:

(i) Meet the definition of a beginning farmer or rancher.

(ii) The applicant, or anyone who will execute the promissory note, has not had direct FO loans outstanding for more than a total of 10 years prior to the date that the new FO loan is closed.

(iii) Have never received a direct FO loan.

(9) *Transition rule.* This applies to business entity applicants with direct FO loans outstanding on April 4, 1996.

(i) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for less than 5 years, the applicant is eligible for new direct FO loans through April 4, 2006.

(ii) If the applicant, or anyone who executed the promissory note, had direct FO loans outstanding for 5 years or more, those parties are eligible for new direct FO loans through April 4, 2001.

(10) Have not caused the Agency a loss by receiving debt forgiveness on all or a portion of any direct or guaranteed loan made under the authority of the Consolidated Farm and Rural Development Act (CONACT) by debt-write down, write-off, compromise provisions of section 331 of the CONACT, adjustment, reduction, charge-off or discharge in bankruptcy or through any payment of a guaranteed loss claim under the same circumstances.

(11) Not be delinquent on any non-tax Federal debt or FSA guaranteed debt. This restriction will not apply if the Federal delinquency is cured on or before the loan closing date. This eligibility restriction applies to the entity and all of its members.

(c) *Borrower training.* The applicant must agree to meet the training requirements of §1924.74 of subpart B of part 1924 of this chapter unless a waiver is granted in accordance with that section. In the case of a cooperative,

corporation, partnership, or joint operation, any individual member holding a majority interest in the operation or who is operating the farm must agree to complete the training or qualify for the waiver on behalf of the entity. However, if one entity member is solely responsible for financial or production management, then only that entity member will be required to complete the training in that area for the entity or qualify for a partial waiver. If the financial and production functions of the farming operation are shared, the knowledge and skills of the individual(s) with the responsibility of production and/or financial management of the operation will be considered in the aggregate for granting a waiver or requiring that training be completed. If a waiver is not granted, these individuals will be required to complete the training in accordance with their responsibilities. If the applicant has previously been required to obtain training, the applicant must be enrolled in and attending, or have satisfactorily completed, the training required.

[53 FR 35692, Sept. 15, 1988, as amended at 55 FR 21528, May 25, 1990; 56 FR 3972, Feb. 1, 1991; 58 FR 69199, Dec. 30, 1993; 62 FR 9355, Mar. 3, 1997; 62 FR 28619, May 27, 1997; 68 FR 7698, Feb. 18, 2003; 68 FR 62224, Nov. 3, 2003; 69 FR 5263, Feb. 4, 2004]

§1943.13 Outreach program for applicants/borrowers who are members of socially disadvantaged groups.

The purpose of this section is to establish procedures and responsibilities for carrying out the Farmers Home Administration (FmHA) or its successor agency under Public Law 103-354 Farm Ownership (FO) Direct Loan and Acquired Property Outreach Program to Applicants/ Borrowers who are members of socially disadvantaged groups.

(a) *Policy.* The FmHA or its successor agency under Public Law 103-354 FO Loan Outreach Program is a concerted effort to:

(1) Surface and correct problems and obstacles that prevent the participation of members of socially disadvantaged groups in the FO loan program.

(2) Target direct FO loan funds to members of socially disadvantaged